

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JASON A. HAINEY,	§
	§
Defendant Below,	§ No. 498, 2018
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§
STATE OF DELAWARE,	§ Cr. ID No. 0306015699 (N)
	§
Plaintiff Below,	§
Appellee.	§

Submitted: November 13, 2018

Decided: December 26, 2018

Before **VALIHURA, SEITZ**, and **TRAYNOR**, Justices.

ORDER

After careful consideration of the appellant’s opening brief, the appellee’s motion to affirm,¹ and the record on appeal, we conclude that the judgment below should be affirmed on the basis of the Superior Court’s order, dated August 23, 2018, adopting the Commissioner’s report and recommendations, dated July 13, 2018. The Superior Court did not err in concluding that the appellant’s second motion for postconviction relief was procedurally barred and did not satisfy the pleading requirements of Superior Court Criminal Rule 61(d)(2). The Court declines to

¹ On November 26, 2018, the appellant filed a motion for leave to respond to the motion to affirm. Under Supreme Court Rule 25(a), a response to a motion to affirm is not permitted unless requested by the Court. The Court did not request a response to the motion to affirm and finds no reason to request a response after considering the appellant’s motion.

address the appellant's confrontation clause argument because he did not raise it in the Superior Court.²

NOW, THEREFORE, IT IS ORDERED that motion to affirm is GRANTED and the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Gary F. Traynor
Justice

² Supr. Ct. R. 8.